

CIRCUIT COURT OF THE UNITED STATES  
For the Southern District of New York  
In the Second Circuit.

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Schumacher and Ettlinger :  
Complainant:

against : In Equity.

Frederick Wogram, John Bruning, :  
Albert Baeucker and Charles J. :  
Lieson, :  
Defendants.:

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Schumacher and Ettlinger, a corporation duly organized and established under the laws of the State of New York, and doing business in the City of New York in the Southern District of New York, and a resident of the State of New York, brings this its Bill of Complaint against Frederick Wogram, John Bruning, Albert Baeucker and Charles J. Lieson, carrying on business in said Southern District of New York, as copartners under the name or style of Fred. Wogram & Co. and all, as your orator is informed and believes citizens of the State of New York, except the defendant Albert Baeucker, who is a citizen of the State of New Jersey.

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And thereupon your orator complains and says:

That Theodore Schumacher, the president of your orator, and Louis Ettlinger, the treasurer of your orator from about the year 1869, have carried on business in the City of New York as copartners under the firm name of Schumacher & Ettlinger, and that their said business has been the production of paintings and lithographic copies of paintings and other works of the fine arts. That on or

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about June 29, 1882, the said Theodore Schumacher and Ettlinger, together with Leopold Schumacher, organized and established your orator as a corporation as aforesaid, and your orator thereupon succeeded to the business of and duly acquired the entire plant of the business of said copartnership of Schumacher & Ettlinger, including the good will of the said copartnership and all its copyrights and property of every kind and nature.

And your orator further shows unto your Honors that all the officers and stockholders of your orator are and were at all the times herein mentioned residents of the United States.

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And your orator further shows unto your Honors that about the month of August, A.D. 1884, your orator procured to be designed and painted for your orator, at its place of business, in said City of New York, a certain original painting, a copy of which is hereunto annexed, marked "Exhibit Copy Painting," the title of which is "Nosegay", and the original painting your orator is and will be ready to produce in Court if required. That the same was invented and designed for your orator by its president, said Theodore Schumacher, who then had and now has charge of the art department of your orator's business, a part of whose duties in which position is to invent and design paintings and kindred art subjects for your orator, and to have the same worked out and executed for your orator under his directions.

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That said Schumacher, after having invented the said design for such painting, directed one of the artists of your orator, who then was and now is a resident of the United

7 States, and who was employed for that purpose and paid by your orator, to work out such design of said Schumacher, and fully described to him such design, and the nature and position of the various objects intended by him, said Schumacher, to make up the subject of said painting.

8 That said artist then, at the place of business of your orator, in said City of New York as aforesaid, from such description by said Schumacher of said invention and design of said Schumacher, and from <sup>the</sup> instructions of said Schumacher, made a full sketch thereof, which said Schumacher corrected, and then directed said artist to make a painting of the same, supervising such painting, and from time to time directing him as to the coloring of the different parts and the shading of the same to produce artistic and effective contrasts of coloring.

9 That said painting was the original invention and design of said Schumacher and was invented and designed for your orator, and worked out and painted under his direction for your orator, as aforesaid, and that all the materials used in the production of the same were the property of your orator, and that the invention and design of said Schumacher, and the work of said artist, was fully paid for by your orator, and that your orator thereby became and was, and now is the proprietor of said painting, and has always been and now is in possession of the same.

And your orator further shows unto your Honors that being the proprietor of said painting, and being a resident of the United States, and desiring to secure the copyright thereof under the laws of the United States respecting copyrights, your orator, before the publication thereof, to wit:

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on the 2nd day of February 1885, delivered at the office of the Librarian of Congress, at Washington, District of Columbia, a description including a true photographic copy of said painting, a duplicate of which photographic copy is hereto attached, marked "Exhibit Photographic Copy"- and made a part hereof, and that the same was duly deposited in the office of the Librarian of Congress at Washington, in the District of Columbia, on the 2nd day of February 1885, and that the Librarian of Congress duly recorded the same on said 2nd day of February A.D. 1885, as will more fully and at large appear from a duly authenticated copy of said record, ready in Court to be produced, if required, a copy whereof is hereto annexed marked "Exhibit Certificate A."

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And your orator further shows unto your Honors, upon information and belief, that on or about the 7th day of February 1885, your orator commenced the publication of said painting and of copies thereof, and that within ten days from the publication of said painting, to wit, on the 2nd day of February 1885, your orator also, as required by law, delivered at the office of the Librarian of Congress, at Washington, District of Columbia, a photograph of said painting, as will more fully and at large appear from a duly authenticated certificate of the Librarian of Congress, ready in Court to be produced, if required, a copy whereof is hereto annexed marked "Exhibit Certificate B."

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And your orator further shows unto your Honors, that by reason of the premises and of the statutes in such case made and provided, there was secured to your orator, its successors and assigns, or intended so to be, for the term of twenty-eight years, from the said 2nd day of February, A.D. 1885, the sole liberty of printing, reprinting,

vending the said painting.

And your orator further shows unto your Honors, that being the lawful proprietor of said painting, and of said copyright, as aforesaid, and in possession of the same, and being able and desirous of supplying copies of the same to purchasers, your orator had made and prepared at its place of business in said City of New York, the necessary lithographic stones from which to print copies of the said painting, which stones belong to and were paid for by your orator, and prepared under the direction of your orator's officers ~~and~~ by persons paid to prepare the same for your orator, and that your orator had printed and continues to print therefrom copies of said painting, and that your orator after the day of depositing the said description as aforesaid, and not before, commenced to publish copies of said painting, and duly gave notice of your orator's copyright, as is required by law, by inscribing upon a visible portion of said painting the words, "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out, thus: Copyrighted 1885 by Schumacher & Ettlinger, N. Y.; and also inscribed a notice in exactly the same form upon a visible portion of every copy of the said painting published by your orator, except that in the copies first published, by an error in the printing, the year was printed 1884 instead of 1885, but that as soon as such error was discovered the year 1885 was inserted in said notice..

And your orator further shows unto your Honors, that in the production of said painting, and since it became the proprietor of the same, and secured said copyright



money, and been to great trouble and expense in making, selling and advertising copies of the same for sale, and for the purpose of carrying on the business of selling the same, and making the same profitable to your orator and useful to the public; and that said painting has been and is of great benefit and advantage to your orator; that there is a large sale and demand for copies of said painting, and that your orator at all times has had and now has on hand sufficient copies of said painting for sale to the public at a reasonable price, and is prepared to supply the demand therefor and sell copies of such painting at a reasonable price, and that the public have generally acknowledged and acquiesced in the aforesaid rights of your orator, and your orator believes that it will realize and receive large gains and profits therefrom, if infringements by the said defendants and their confederates shall be prevented.

And your orator further shows unto your Honors, on information and belief, that Frederick Wogram, John Bruning, Albert Baeucker and Charles J. Lieson, the defendants, well knowing the premises and the rights secured to your orator as aforesaid, but contriving to injure your orator, and to deprive it of the benefits and advantages which might and otherwise would accrue unto it from said painting and copyright, on or about the 21st day of November, A.D. 1887, and at other times after the recording of the description of said painting, as aforesaid, and within the term limited (to wit., within the said twenty-eight years aforesaid), and before the commencement of this suit, and without the consent of your orator, first obtained in writing, signed in the presence of two or more witnesses, and against the will

and in infringement of said copyright, did, as your orator is informed and believes, at the city of New York, and at other places within the United States, print, reprint, publish, complete, copy, execute and finish great numbers of copies of said painting, the property of your orator, and for which your orator had obtained said copyright as aforesaid; and that said defendants at said times and places aforesaid, and knowing that such copies of said painting were worked, printed, reprinted, published, completed, copied, executed and finished without the consent of your orator first obtained, as required by law and as aforesaid, and against the will of your orator, did publish such copies thereof, and sell such copies thereof, and expose to sale such copies thereof, and that the defendants still continue to do so, and that they are threatening to make copies of the aforesaid painting in large quantities, and to supply the market therewith and to sell the same.

And your orator further shows unto your Honors, upon information and belief, that said defendants have published, sold, and exposed to sale, large quantities of pirated copies of said painting at the times and places aforesaid, and have large quantities on hand which they are offering for sale, and have made and realized large profits and advantages therefrom; but to what extent, and how much exactly, your orator does not know, but believes that same amount to about two thousand dollars.

And your orator further shows unto your Honors, upon information and belief, that at the time of publishing and of selling, and of exposing to sale, the said pirated copies of said painting by the defendants, the defendants

that the said copies by them published, and by them sold, and by them exposed to sale, were published, and were sold, and were exposed to sale, without the consent of your orator, and in violation of your orator's rights, and in infringement of your orator's said copyright.

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And your orator further shows unto your Honors, that the publishing, the selling, and the exposing to sale of such piratical copies of your orator's said painting by said defendants, and their preparation for and continuance thereof, and their other aforesaid unlawful acts, in disregard and defiance of the rights of your orator, have the effect to and do encourage and induce others to infringe said copyright in disregard of your orator's rights.

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All in defiance of the rights acquired by and secured to your orator as aforesaid, and to your orator's great and irreparable loss and injury, and by which your orator has been and still is being deprived of great gains and profits, which it might and otherwise would have obtained, but which have been received and enjoyed by the said defendants by and through their aforesaid unlawful acts and doings.

And your orator further shows unto your Honors, that it fears, and has reason to fear, that unless the defendants are restrained by a writ of injunction issuing out of this Court they will continue to print, reprint, publish, complete, copy, execute, finish, sell and expose to sale great numbers of piratical copies of said painting, and thereby will cause irreparable injury to your orator's aforesaid exclusive rights.

(8)

And your orator hereby waives all claims or demands



it has or can have by reason of the premises.

And your orator prays that the said defendants Frederick Wogram, John Bruning, Albert Baeucker and Charles J. Lieson, may be compelled, by a decree of this Honorable Court, to account for and to pay over unto your orator all such gains and profits as have accrued or arisen to, or been earned or received by, the said defendants, and all such gains and profits as your orator would have received but for the said wrongful acts and doings of the said defendants, and that your orator may have such other and such further relief as may be just.

And your orator prays that the said defendants Frederick Wogram, John Bruning, Albert Baeucker and Charles J. Lieson, their and each of their associates, servants, agents, attorneys and workmen, and each and every of them, may be restrained and enjoined, provisionally, pending this suit, and forever afterwards, by the order and injunction of this Honorable Court, from directly or indirectly working, printing, reprinting, publishing, completing, copying, executing, or finishing any copies of the aforesaid painting so as aforesaid the property of your orator, or any part thereof; and from publishing, exposing to sale, selling, or otherwise disposing of any piratical copies of said painting, or any like or similar to those which they have heretofore made, sold or exposed to sale, or any part or parts of such copies; and also all the plates upon which the same were copied, and from directly or indirectly copying, imitating, or counterfeiting the aforesaid copyright painting, of which your orator is proprietor; and that the

form and abide by such order and decree herein, as to this Court may seem required by the principles of equity and good conscience.

And your orator will ever pray, etc.

(Seal)

*Schumacher & Ettlinger*  
by *Theo. Schumacher*  
President

*Allen, Talmage & Allen*

Complainant's Solicitors.

*Augustus T. Guilford*  
of Counsel.

State of New York :  
City and County of New York : ss:

Theodore Schumacher, being duly sworn, deposes and says, that he is the President of Schumacher & Ettlinger, the complainant herein, that he has read the foregoing bill of complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to such matters he believes it to be true.

Subscribed and sworn to :  
before me this 10<sup>th</sup> day :  
of December, A. D. 1887

*John L. Larkin*  
Notary Public  
*NY City*

*Theo. Schumacher*



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NEW YORK, N. Y.

*Exquisite Copy Painting.*

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Defendants.:

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NOTICE is hereby Given, that upon the Bill of Com-  
plaint filed herein and <sup>upon</sup> the affidavits and papers annexed ~~there~~  
copies of all of which are herewith served upon you, and  
upon such other papers and affidavits as may be hereafter  
served upon you, and upon the subpoena herein, we shall ap-  
ply to this Honorable Court, or one of the Judges thereof,  
at the United States Court Rooms in the Post Office Building  
in the City of New York on the 23rd day of December 1887,  
at ten o'clock in the forenoon of that day, or as soon  
thereafter as Counsel can be heard, for a preliminary or  
provisional injunction, pursuant to the prayer of the Bill.

We shall also then and there apply for such other  
and further relief as may be meet.

Dated New York, December 13th 1887.

*Allen, Talmage & Allen*

Compl't's Solicitors.

320 & 322 Broadway, N.Y.

To the Defendants.





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CHRISTIAN HER & STUMBER N.Y.

*Complainants Exhibit N° 2*



# OPERA BOUQUET



Exhib. W. L. & Co. same Phil-  
B. V. S. No. 4.

# OPERA BOUQUET



COPYRIGHTED 1894 BY  
SCHUMACHER & ETTLINGER N.Y.

## No 6562. ALSO BLANK

\$30.00 PER 1000. \$3.30 PER 100.

**SCHUMACHER & ETTLINGER,**

32, 34 & 36 BLEECKER STREET,  
NEW YORK.

*Alay Meyer*


Schumacher & Efflinger,  
32, 34 & 36 Bleecker St. - - New York.

**SUPPLEMENT No. 6.**

MARCH 1885.

No.			Per 1000	Per 100
6512	Odaliska,	ins.....	\$30.00..	\$3.30
6513	"	outs.....	15.00..	1.65
6514	Fraternity,	ins.....	20.00..	2.20
6515	"	outs.....	12.50..	1.35
6516	Coon,	ins.....	30.00..	3.30
6517	"	outs.....	15.00..	1.65
6518	Sweet Nellie,	ins.....	30.00..	3.30
6519	" "	outs.....	15.00..	1.65
6520	Blank Flap, red, embossed.....		22.50..	2.50
6521	" " blue " .....		22.50..	2.50
6522	" " green " .....		22.50..	2.50
6523	Blank Inside,	.....	10.00..	1.10
6524	Rail Life,	ins.....	30.00..	3.30
6525	" "	outs.....	15.00..	1.65
6526	Diogenes,	ins.....	30.00..	3.30
6527	"	outs.....	15.00..	1.65
6528	Blank Inside,	.....	25.00..	2.75
6529	" Outside,	.....	12.50..	1.35
6530	Blank Inside, Photo. border.		12.50..	1.35
6531	" Outside " " .....		7.50..	.85
6532	Compass,	ins.....	20.00..	2.20
6533	"	outs.....	12.50..	1.35
6534	"	flap.....	17.50..	2.00
6535	Buds,	ins.....	30.00..	3.30
6536	"	outs.....	15.00..	1.65
6537	Blatherskite,	ins.....	15.00..	1.65
6538	"	outs.....	8.00..	.85
6539	Petruchio,	ins.....	30.00..	3.30
6540	"	outs.....	15.00..	1.65
6541	Blank Inside,	large.....	17.50..	2.00
6542	" Outside,	.....	8.00..	.85
6543	Mikada,	ins.....	35.00..	3.75
6544	"	outs.....	17.50..	2.00
6545	"	flap....	17.50..	2.00
6546	Blank Inside,	.....	20.00..	2.20
6547	" Outside,	.....	12.50..	1.35
6548	Rosella,	ins.....	35.00..	3.75
6549	"	outs.....	17.50..	2.00
6550	Premio del Mundo,	ins.....	30.00..	3.30
6551	" " "	outs.....	15.00..	1.65
6552	" " "	flap.....	30.00..	3.30
6553	" " "	tag... ..	5.00..	.55
6554	Daily News,	ins.....	30.00..	3.30
6555	" "	outs.....	15.00..	1.65
6556	Sumatra,	ins.....	30.00..	3.30
6557	"	outs.....	15.00..	1.65
6558	"	flap.....	22.50..	2.50
6559	"	tag.....	7.50..	.85
*6560	Honoras, small,	ins.....	17.50..	2.00
6561	"	outs.....	12.50..	1.35
6562	Opera Bouquet,	ins.....	30.00..	3.30
6563	" "	outs.....	15.00..	1.65
6564	" "	flap.....	30.00..	3.30
*6568	Olympia, small,	ins.....	17.50..	2.00
6569	"	outs.....	12.50..	1.35
6570	Hermanas,	ins.....	12.50..	1.35
6571	"	outs.....	7.50..	.85
6572	La Vuelta Abajo,	ins.....	12.50..	1.35
6573	" " "	outs.....	7.50..	.85

\*Nos. 6560 and 6568 are especially designed for one bundle boxes, and can only be had 5 1-2 inches long.

 All labels also furnished blank.